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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Tariff Filing Requirements for )  
Nondominant Common Carriers )

CC Docket No. 93-36

**COMMENTS  
OF THE  
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits its comments in the above-referenced proceeding. USTA is the principal trade association of the exchange carrier industry. Its members represent over 98 percent of the exchange carrier-provided access lines in the U. S. The USTA interest represented herein is that of exchange carriers alone.

As a result of the decision of the U. S. Court of Appeals for the District of Columbia Circuit, so-called nondominant common carriers must file tariffs with the Commission. In this proceeding, the Commission is seeking comment on a proposal to streamline, to the maximum extent possible, its tariff filing rules for domestic nondominant common carriers. Specifically, the Commission is proposing to allow nondominant common carriers to file interstate tariffs on not less than one day notice. It proposes to reduce tariff content requirements for nondominant carriers by allowing such carriers to state in their tariffs either a maximum rate or a range of rates. The Commission also

proposes to require these carriers to file their tariffs and tariff revisions on one half inch floppy diskettes and to give them flexibility in formatting their tariff filings. Finally, the Commission seeks comment on whether any category of nondominant carrier, such as nondominant wireless carrier, can and should be regulated differently than nondominant carriers generally.

The Commission's past policy findings, based on the telecommunications environment of more than a decade ago, are outdated and should no longer serve as the basis for implementing regulation in 1993. The Commission initiated its Competitive Carrier proceeding in 1979, five years prior to the divestiture of AT&T. It seems incredible that the Commission would continue to rely on such an outdated rationale given the technological evolution, the development of telecommunications markets and the growth of competition which have occurred since that time. Without updating the record, the Commission can no longer assume that its policy of selective regulation of competitors is in the public interest.<sup>1</sup>

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<sup>1</sup>For the reasons stated in these comments, USTA does not support different regulatory treatment for subsets of nondominant common carriers. The Commission is attempting to establish a competitive market environment for wireless services. See, Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, ET Docket No. 92-100, Notice of Proposed Rulemaking and Tentative Decision, released August 14, 1992 at ¶ 70. The Commission suggests that personal communications services (PCS) may become a full fledged competitor to wireline services. It is reported that, in 1992, the number of new wireless subscribers in the U. S. outpaced the

Continued, pervasive regulation of one group of competitors in the face of other, essentially unregulated competitors can only serve to introduce a host of distortions in a market and deliver anticompetitive results. For example, in CC Docket No. 91-213, the Commission took steps to eliminate term and volume discounts, to cap DS1 and DS3 rates and to place pricing limits on exchange carrier rates for transport services on an interim basis.<sup>2</sup> The competitors of the exchange carriers are seeking to continue such restrictions and impose additional constraints on exchange carrier transport rate structure and rate levels over the long term. Those competitors are not subject to any such restrictions. Of course, exchange carriers must comply with extensive tariff filing requirements under the current Commission rules.<sup>3</sup> If the

Commission's streamlined tariff filing requirements are adopted, exchange carrier competitors will be able to establish individual case basis prices for services, including term and volume discounts, without any cost support material, without any constraints on rate structure or rate levels and without any restrictions on establishing new rate elements. They would be subject only to the minimum and maximum prices listed in their tariffs. For those competitors who find even that requirement too restrictive, the Commission would permit them to avoid filing even a minimum price in their tariffs.

While USTA does not quarrel with the Commission's pro-competitive policies, such policies should not be aimed at promoting competitors, but should instead promote the development of fair competition. It is difficult to imagine how the Commission's proposal will encourage fair competition. The customer will not benefit from a policy in which all interstate access market entrants except the exchange carriers can assure themselves of market share by underpricing the exchange carrier and simultaneously hiding its own tariff prices from them. Such a policy prevents the customer from benefiting from directly

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§ 63.07. Certificates of discontinuance are automatically granted nondominant carriers after thirty days. § 63.71. Only dominant carriers need file reports on pensions and benefits, § 42.42, reports of changes in depreciation rates, § 43.43, contracts and concessions, § 43.51, and annual reports of carriers owned by foreign entities, § 43.81. Only dominant carriers must file interstate rate of return methodologies. § 65.1.

responsive price competition from the exchange carrier.

The days of end-to-end connectivity for anyone within a single network operated by a single company are over. The nationwide public switched telephone network is evolving into a network of networks in which virtually every component will be competitively provided. Regulation must be designed to accommodate this evolution and to assure that the carriers on whom a significant proportion of customers depend, exchange carriers, can compete to the same extent as any other provider in delivering new services and network capabilities.

USTA believes that the only means to achieve the policy benefits that the Commission intends is to treat all competitors equally in a market where competition exists. USTA has developed such a proposal. USTA's Interstate Access Reform Proposal was included in USTA's reply comments in both CC Docket Nos. 91-213 and 91-141 and is incorporated herein by reference. Under USTA's proposal the Commission would adjust the regulatory requirements for all carriers based on the competitiveness of a particular market. As competition increases, the level of regulation would be reduced for all competitors. Many states have already adopted similar regulatory proposals.<sup>4</sup>

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<sup>4</sup>For example, in Ohio basic local exchange services are given different regulatory treatment than services deemed subject to competition. Competitive service offerings can be exempt from state commission ratemaking requirements and are eligible for automatic tariff approval. Similar plans have been enacted

The Commission's proposal will only serve to confer an unearned competition advantage on certain carriers. Instead of attempting to manage markets and service providers, the Commission should institute regulation which accommodates the dynamics of markets and technology and reduce the level of regulation for all market participants as competition increases.

Respectfully submitted,

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